

## **R590. Insurance, Administration.**

### **R590-269. Individual Open Enrollment Period.**

#### **R590-269-1. Authority.**

This rule is promulgated pursuant to Subsection 31A-30-117(1)(c) wherein the commissioner is directed to adopt a rule to establish one statewide open enrollment period for the individual insurance market that is not part of the Federally Facilitated Marketplace.

#### **R590-269-2. Purpose and Scope.**

(1) The purpose of this rule is to establish an open enrollment period for a carrier that offers an individual health benefit plan outside the Federally Facilitated Marketplace.

(2) This rule applies to a carrier that offers an individual health benefit plan outside the Federally Facilitated Marketplace with an effective date on or after January 1, 2014.

#### **R590-269-3. Definitions.**

In addition to the definitions in Sections 31A-1-301 and 31A-30-103, the following definitions apply for the purpose of this rule.

(1) "Federally Facilitated Marketplace" means an exchange set up by the federal government to facilitate the purchase of individual health insurance in accordance with the Patient Protection and Affordability Care Act (PPACA).

(2) "Qualifying life event" means an event that triggers a special enrollment period because an individual or dependent:

(a) loses minimum essential coverage;

(b) gains a dependent or becomes a dependent through marriage, birth, adoption or placement for adoption;

(c) enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange;

(d) adequately demonstrates to the individual carrier that the health benefit plan in which he or she is previously enrolled substantially violated a material provision of its contract in relation to the enrollee;

(e) is newly ineligible for advance payment of premium tax credits; or

(f) permanently moves into a new service area.

(2)(a) "Loss of minimum essential coverage" means those circumstances described in 26 CFR 54.9801-6(a)(3)(i) through (iii).

(b) Loss of minimum essential coverage does not include termination or loss due to:

(i) failure to pay premiums on a timely basis, including COBRA premiums prior to expiration of COBRA coverage; or

(ii) situations allowing for a rescission as specified in 45 CFR 147.128.

#### **R590-269-4. Open and Special Enrollment Periods.**

(1)(a)(i) Except as otherwise provided herein, the initial open enrollment period for an individual health benefit plan outside the Federally Facilitated Marketplace is October 1, 2013 through March 31, 2014.

(ii) The open enrollment period in Subsection (a)(i) shall be extended to be consistent with the open enrollment period for the Federally Facilitated Marketplace if the United States Department of Health and Human Services extends the open enrollment period for the Federally Facilitated Marketplace beyond March 31, 2014.

(iii)(A) Coverage begins on January 1, 2014 for individuals who enroll on or before December 15, 2013.

(B) After December 15, 2013, if an individual enrollment occurs between the first and the fifteenth of the month, coverage is effective the first day of the following month. If enrollment occurs between the sixteen and the last day of the month, then coverage is effective the first day of the second following month.

(b) After the initial enrollment period in Subsection (a), the open enrollment period is annually from October 15 through December 7 for a coverage effective date of January 1 the immediately following year.

(2)(a) An individual carrier shall offer to an individual experiencing a qualifying life event, a special enrollment period for at least 60 days.

(b) In the case of birth, adoption or placement for adoption, the coverage is effective on the date of:

(i) birth;

(ii) adoption; or

(iii) placement for adoption

(c) Coverage is effective the first day of the month following the date the insurer receives the request for special enrollment in the case of:

(i) marriage;

(ii) an individual or dependent loses minimum essential coverage;

(iii) an individual or dependent's enrollment or non-enrollment is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee or agent of an exchange or the United States Department of Health and Human Services, or its instrumentalities as evaluated and determined by an exchange ;

(iv) an individual adequately demonstrates to the individual carrier that the health benefit plan in which he or she is previously enrolled substantially violated a material provision of its contract in relation to the enrollee; or

(v) an individual permanently moves into a new service area.

(3) Nothing in this rule prohibits an insurer from offering open or special enrollment periods in addition to the open and special enrollment periods required by this rule.

#### **R590-269-5. Penalties.**

A person found to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.

#### **R590-269-6. Enforcement Date.**

The commissioner will begin enforcing this rule 30 days from the rule's effective date.

#### **R590-269-7. Severability.**

If any provision of this rule or its application to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected thereby.

**KEY: individual open enrollment period**

**Date of Enactment or Last Substantive Amendment: 2013**

**31A-30-117**